

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

**In re:**

**Mark J. Hallich  
d/b/a A Plus Concrete & Brick**

**Chapter 7**

**Debtor(s).**

**BK 04-50203 GFK**

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**Habbo G. Fokkena, United States Trustee**

**Plaintiff,**

**vs.**

**Adv. No.**

**Mark J. Hallich**

**Defendant(s).**

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**COMPLAINT TO REVOKE DISCHARGE**

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Habbo G. Fokkena, United States Trustee, Plaintiff, by and through his undersigned attorney,  
for his complaint against Mark J. Hallich, defendant debtor, states and alleges that:

1. This complaint is filed under FED. R. BANKR. P. 7001(4) and seeks an order revoking  
the debtor's discharge pursuant to 11 U.S.C. § 727(d)(3).

2. This court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§  
157 and 1334 and FED. R. BANKR. P. 4004. This proceeding is a core proceeding.

3. The United States Trustee has standing to commence this adversary proceeding  
pursuant to 28 U.S.C. § 586(a) and 11 U.S.C. §§ 307 & 727(d).

4. Upon information and belief, the defendant, Mark J. Hallich, is a resident of  
Minnesota.

5. The defendant debtor commenced the present bankruptcy case on February 25, 2004.

*See* Att. Ex. 1 (BANCAP Report). A discharge was granted on June 8, 2004. *See Id.* The case has not been closed as of the date this complaint was prepared by the undersigned.

6. On May 24, 2004, the Chapter 7 Trustee filed a motion demanding that the debtor turnover the following property of the estate: 1995 Crestliner Boat; a 1993 140 hp Johnson outboard motor; a 1995 Shorelander trailer; a 1972 van; a 1990 Chevrolet Suburban; a Smith & Wesson 38-caliber pistol; and a Taurus 22-caliber pistol. *See* Att. Ex. 2 (Affidavit of Robert R. Kanuit).

7. On July 7, 2004, the Bankruptcy Court entered an Order directing the debtor to turnover the property of the estate listed in paragraph 6 of this complaint and ordering the debtor to pay \$ 250.00 to the trustee for his attorney fees. *Id.* (Att. Ex. 1).

8. As of this date, the debtor has failed to comply with the Bankruptcy Court's Order, dated July 7, 2004. *Id.*

9. Pursuant to 11 U.S.C. § 727(a)(6)(A), the defendant debtor has failed to obey a lawful order of the court.

10. 11 U.S.C. § 727(d)(3) provides that a basis to revoke a discharge exists if the debtor (defendant) commits an act specified in subsection (a)(6) of Section 727.

WHEREFORE, the Plaintiff requests that this Court enter judgment revoking the defendant debtor's discharge herein, together with such further relief as the Court seems just.

Dated: August 3, 2004

HABBO G. FOKKENA  
UNITED STATES TRUSTEE  
REGION 12

BY: /s/ Sarah J. Wencil  
Sarah J. Wencil  
Trial Attorney  
Office of the United States Trustee  
Suite 1015 U.S. Courthouse  
300 S. 4<sup>th</sup> Street  
Minneapolis, MN 55415

(612) 664-5500  
IA ATTY NO. 14014

Return to Search Results Page

U.S. Bankruptcy Court  
District of Minnesota (Duluth)

Bankruptcy Petition #: 04-50203

Date filed: 2/25/04

Assigned to: CHIEF JUDGE GREGORY F KISHEL

Chapter 7 voluntary individual no asset

===== \* Attorneys \*

MARK JEFFREY HALLICH

dba

A PLUS CONCRETE & BRICK

59194 - 412TH PLACE

SWATARA, MN 55785

SSN: XXX-XX-6769

Tax ID: 41-1776880

\* Debtor \*

JOHN P DIMICH

DIMICH LAW OFFICE

102 NE 3RD ST STE 120

GRAND RAPIDS, MN 55744

218-326-9646

-----  
U S TRUSTEE

1015 U S COURTHOUSE

300 S 4TH ST

MINNEAPOLIS, MN 55415

\* U S Trustee \*

ROBERT R KANUIT

4815 W ARROWHEAD RD STE 230

HERMANTOWN, MN 55811

\* Trustee \*

-----  
Proceedings include all events.

2/25/04 1 Voluntary Petition all schedules and statements.  
Electronically filed by John P Dimich on: Wed Feb 25  
16:05:42 2004 (A067) [EOD 02/25/04]

2/25/04 2 Declaration of Original Signature Re: [1-1] Electronic  
Voluntary Petition . (A067) [EOD 02/25/04]

2/25/04 -- Added U S TRUSTEE. (auto) [EOD 02/25/04]

2/25/04 3 Creditor list supplied by debtor. (A067) [EOD 02/25/04]

2/26/04 -- Filing Fee Paid in Full Re: [1-1] Electronic Voluntary  
Petition ( Filing Fee \$ 209.00 Receipt # 25892) (sls)  
[EOD 02/26/04]

Docket as of August 2, 2004 3:55 pm

Page 1

EXHIBIT "1"

Proceedings include all events.

04-50203 In re: MARK JEFFREY HALLICH

2/26/04	4	Appointment of Interim Trustee and Approval of Bond. (sls) [EOD 02/26/04]
2/26/04	5	Notice of Meeting of Creditors under 11 USC 341(a) Scheduled For 10:00 4/7/04 At Courtroom 2 (Duluth) Last Day To Oppose Discharge: 6/7/04 Certificate of Service. (sls) [EOD 02/26/04]
5/24/04	6	Notice of Hearing and Motion by Trustee ROBERT R KANUIT to Turn Over Property . Hearing Scheduled for 2:00 7/7/04 at Courtroom 2 (Duluth) Affidavit, Memorandum of Law, Proof of Service, Proposed Order. (A214) [EOD 05/24/04]
6/8/04	7	Order Discharging Debtor MARK JEFFREY HALLICH . Certificate of Service. (rmg) [EOD 06/08/04]
7/7/04	8	Minute Sheet Re: [6-1] Motion to Turn Over Property b ROBERT R KANUIT . ROBERT KANUIT APPEARED ON BEHALF OF MOVANT. MOTION GRANTED. (amm) [EOD 07/07/04]
7/7/04	9	Order Granting [6-1] Motion to Turn Over Property by ROBERT R KANUIT . (GFK) COURT'S CERTIFICATE OF SERVICE. (amm) [EOD 07/07/04]

UNITED STATE BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In Re:

Case No.: 04-50203 GFK

MARK J. HALLICH,

Debtor.

**AFFIDAVIT OF ROBERT R. KANUIT**

STATE OF MINNESOTA    )  
                                  )ss.  
COUNTY OF ST. LOUIS    )

Robert R. Kanuit, being first duly sworn on oath, deposes and states:

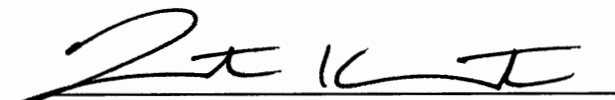
1. I was appointed as the Chapter 7 Trustee to oversee administration of the above-captioned case on February 26, 2004.

2. On May 24, 2004, I filed a Motion for Turnover of property belonging to the estate, specifically: 1995 Crestliner boat; a 1993 140 hp Johnson outboard motor; a 1995 Shorelander trailer; a 1972 Ford van; a 1990 Chevrolet Suburban; a Smith & Wesson 38-caliber pistol; and a Taurus 22-caliber pistol.

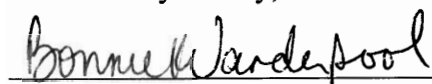
3. On July 7, 2004, the Court granted the Motion for Turnover. *See* Att. Ex. 1. Pursuant to the Order, the Debtor was required to turn over the property by July 21, 2004.

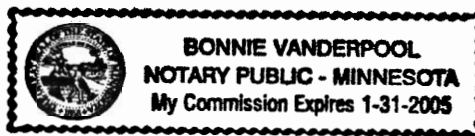
4. To date, debtor Mark J. Hallich has not turned over the property.

FURTHER, AFFIANT SAYETH NOT.

  
Robert R. Kanuit

Subscribed and sworn to before me  
this 27th day of July, 2004.

  
Notary Public, State of Minnesota  
My commission expires: 1-31-05



UNITED STATE BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In Re:

Case No.: 04-50203 GFK

MARK J. HALLICH,  
Debtor.

**ORDER**

The above-captioned matter came before the Court on the July 7, 2004, on motion by the Chapter 7 trustee, Robert R. Kanuit, seeking an order requiring the debtor to turn over property, specifically: 1995 Crestliner boat; a 1993 140 hp Johnson outboard motor; a 1995 Shorelander trailer; a 1972 Ford van; a 1990 Chevrolet Suburban; a Smith & Wesson 38-caliber pistol; and a Taurus 22-caliber pistol.

Robert R. Kanuit appeared for the trustee. Other appearances are noted in the record.

The Court made its findings of fact and conclusions of law on the record pursuant to Rule 52 of the Federal Rules of Civil Procedure and Bankruptcy Rule 7052.

Based upon the files and records, and arguments of counsel,

IT IS HEREBY ORDERED,

1. That the debtor shall turn over to the trustee the following property, not later than July 21, 2004: 1995 Crestliner boat; a 1993 140 hp Johnson outboard motor; a 1995 Shorelander trailer; a 1972 Ford van; a 1990 Chevrolet Suburban; a Smith & Wesson 38-caliber pistol; and a Taurus 22-caliber pistol.

2. That this order shall constitute a lawful order within the meaning of 11 U.S.C. 727(a)(6)(A) for purposes of discharge revocation should the debtor fail to comply with its terms in a timely manner.

3. That the attorney for the trustee is hereby awarded \$250.00 as and for attorney fees and costs in connection with the motion for turnover. That said award shall be paid to Kanuit & Bray, Ltd., within 10 days of entry of this order.

Dated this 7 day of July, 2004.

*1E1 Gregory F. Kishel*

Honorable Gregory F. Kishel  
United States Bankruptcy Judge

NOTICE OF ELECTRONIC ENTRY AND  
FILING ORDER OR JUDGMENT  
Filed and Docket Entry made on 07/07/04  
Lori Vosejпка, Acting Clerk, By AMM

**KANUIT  
& BRAY**

ATTORNEYS AT LAW

RECEIVED

2004 JUL 28 A 9:38

OFFICE OF THE  
UNITED STATES TRUSTEE

ROBERT R. KANUIT\*\*  
JOHN H. BRAY

July 27, 2004

U.S. Department of Justice  
Office of the United States Trustee  
**Attn: Sarah J. Wencil**  
U.S. Courthouse, Suite 1015  
300 South Fourth Street  
Minneapolis, MN 55415

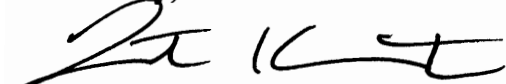
RE: Bankruptcy File No.: 04-50203  
Debtor: Mark J. Hallich  
Our File No.: 04-100.40

Dear Sarah:

The debtor in the above matter has not complied with a turnover order I obtained on July 7, 2004. Please commence proceedings to revoke the debtor's discharge. An affidavit for your use in that regard is enclosed.

Thank you.

Sincerely,



Robert R. Kanuit

RRK:bkp  
Enclosure

North Shore Bank Place  
4815 West Arrowhead Road  
Suite 230  
Hermantown, MN 55811

Phone 218.722.7722  
Fax 218.722.7744  
Web [kanuitbraylaw.com](http://kanuitbraylaw.com)



**United States Bankruptcy Court  
District of Minnesota**

In re **Mark Jeffrey Hallich**

Case No.

Chapter **7**

**SUMMARY OF SCHEDULES**

AMOUNTS SCHEDULED

NAME OF SCHEDULE	ATTACHED (YES/NO)	NO. OF SHEETS	ASSETS	LIABILITIES	OTHER
A - Real Property	YES	1	\$ 115,000.00		
B - Personal Property	YES	3	\$ 25,135.00		
C - Property Claimed as Exempt	YES	1			
D - Creditors Holding Secured Claims	YES	1		\$ 70,407.61	
E - Creditors Holding Unsecured Priority Claims	YES	2		\$ 0.00	
F - Creditors Holding Unsecured Nonpriority Claims	YES	7		\$ 121,043.33	
G - Executory Contracts and Unexpired Leases	YES	1			
H - Codebtors	YES	1			
I - Current Income of Individual Debtor(s)	YES	1			\$ 0.00
J - Current Expenditures of Individual Debtor(s)	YES	1			\$ 1,420.00
Total Number of sheets in ALL Schedules ➤		19			
Total Assets ➤			\$ 140,135.00		
Total Liabilities ➤				\$ 191,450.94	

## **VERIFICATION**

I, Sarah J. Wencil, a trial attorney for the United States Trustee, the petitioner herein, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on August 3, 2004

/s/ Sarah J. Wencil  
Sarah J. Wencil  
Trial Attorney  
Suite 1015 U.S. Courthouse  
300 S. 4<sup>th</sup> Street  
Minneapolis, MN 55415  
(612) 664-5500  
IA ATTY NO. 14014